

established utility. This rejection is respectfully traversed.

5 First, it is believed that the above amendments overcome the rejection based on lack of utility, as the claims are now more precisely directed to a method for producing a thematic package with contents which are for use in an activity commonly associated with the theme of the packaging.

The claims are now more precisely directed to a method for creating packaging, with the structure of the packaging serving as a visual indicator of an activity in which the contents of the package may be used.

10 The claims recite steps necessary to create such package and included content:

Obviously, a package has utility and the method of creating same also has utility. Such utility is described in the application and inherently exists in a method of creating a package.

15 Further, the art is replete with method patents directed to creation of various forms of packaging, and thus a well established utility does exist, contrary to the Examiner's opinion.

The Examiner has then rejected all claims under 35 USC 102(b) and 35 USC 103(a) as unpatentable over Agapiou. This rejection, as it may be applied to the amended claims, is respectfully traversed.

20 Agapiou discloses a safety education/awareness kit which comprises a tire shaped container and at least one toy figure therein having a flattened area with simulated tire tread marking thereon. The kit is for creating a lasting visual impression of the hazard of pedestrian carelessness when the "run over" toy figure and tire are placed in proximity to one another.

25 There is no disclosure, suggestion or motivation provided to create a package in the form of an icon having a particular activity visually associated therewith and placing an item useful in the activity within the package.

30 Agapiou's tire may be considered associative to the act of driving, however, the "run over" toy figure cannot be construed as useful to a driver.

Accordingly, the rejections should be withdrawn.

An earnest endeavor has been made to place the application in condition for allowance and an early action to that end is awaited.

Respectfully submitted,

Date: 21 June 2000



Peter K. Trzynka  
(Reg. No. 32,601)

P.O. Box 7131  
Chicago, IL 60680-7131

(312) 240-0824